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Towards a CRS 2.0

7 point action plan for greater tax transparency

by Sven Giegold MEP, presented at the OECD's Global Forum on 9th December 2020

Since the Bretton Woods Regime came to an end in the early 1970s we have seen the growth of offshore finance. This development was interpreted by many as substantiating the claim that 'we simply cannot catch capital anymore'. Sooner or later, they said, capital income and capital itself, especially in its mobile form, will become impossible to tax and tax rates will move towards zero. For decades, countries engaged in a vicious cycle of tax competition to please financial capital to the detriment of honest long term investors and other taxpayers.

The Common Reporting Standard (CRS) was a true game changer. Agreed in 2014, the CRS sent a strong signal that tax sovereignty will be defended in times of a globalising economy. This was truly groundbreaking: Countries decided to work together to ensure that beneficiaries of capital income, too, must pay their fair share to society. In 2017, the automatic exchange of information was finally operational. Already when comparing the amount of information exchanged in 2018 and in 2019, we see a significant increase: the number of financial accounts as well as the total assets covered doubled, from 47 million accounts in 2018 to 84 million financial accounts in 2019, covering 10 trillion euros in financial assets. I very much hope that this trend continues in the data for 2020!

Yet, it is hard to imagine this strong multilateral achievement without the work done by the Obama-Biden Administration. It spearheaded this shift in international tax transparency with the Foreign Account Tax Compliance Act (FATCA). Before FATCA was signed into law in 2010, we could not agree on effective tax cooperation neither in Europe nor internationally. It was only thanks to the FATCA that countries finally gave up on their resistance to effective cooperation in tax matters and agreed to comprehensive and automatic exchange of information. I am convinced: Europe would not have been able to agree on such a strong standard for the automatic exchange of information without the work done by the US in the first place. As rapporteur of the European Parliament, I am currently working on a report on the implementation of the first four Directives on Administrative Cooperation (DAC), the European counterpart to the CRS. I will be happy to share my findings in the coming year!

With the Covid-19 pandemic, it has become clear how bitterly needed this tax income from capital is. We will only be able to address the current health crisis and the economic and societal changes to come if we are able to insist on fair taxation for all. To do that, we need

to defend the sovereign right of all states to tax their residents on a fair and even basis. Only then will we have the chance to trigger the investments we need to rebuild our economies and to achieve the global sustainable development goals, with the climate and equity objectives at their core. Only with fair and even taxation and true tax sovereignty for all countries will we be able to limit the stark inequalities we currently witness. Only with financial transparency we can successfully fight large scale crime and corruption successfully.

With all this praise for what has been achieved, we should also be clear on how much work we still have to do: With the CRS, we have caught a lot of fish, but some of the largest fish still manage to go unreported. This can be demonstrated easily by looking at current so-called secrecy jurisdictions and regimes. After the introduction of CRS and FATCA the strong growth of offshore finance came to an end but the number of shell companies with little economic substance has not fallen either. And we see growing evidence for mobile capital from dubious sources moving from banks and securities to non-reporting forms of capital such as real estate and luxury goods. It is to be highlighted that all this is not only about some small islands - financial secrecy is very much at the heart of some of the world's largest financial centres. Therefore, I believe it is absolutely necessary to work on a shared vision. A shared vision which reaffirms that all states should be able to tax their taxpayers on an even and fair basis and thus to regain their tax sovereignty in this globalised world. To implement this vision we need a CRS 2.0.

Therefore, I would like to propose an action plan with seven points on how to update the CRS:

- 1. Beneficial ownership information needs to be reported effectively and consistently.** In most countries today, there is a de facto threshold of 25 percent. Only above this threshold a beneficial owner needs to be recorded and reported. This limit must be lowered strongly in order to ensure that large players such as family offices are no longer able to circumvent automatic reporting. Equally it should no longer be possible to register nominee directors. A financial institution which does not know the identity of the beneficial owner should close the business relationship. In addition, we need to make sure that active entities cannot be misused in order to hide passive income. In fact, I do not see a convincing reason why any company should be exempt from automatically reporting all beneficial owners of significant size to the relevant authorities worldwide.
- 2.** We need to ensure that all countries receive high-quality information. To ensure full compliance, **we need monetary and non-monetary sanctions as well as effective controls.** Ideally, these controls would also be carried out by independent third parties.
- 3. No assets should be excluded from automatic reporting.** Non-financial assets such as real estate but also luxury goods such as art and jewellery need to be included under the CRS 2.0. I am also concerned about the growth of new forms to store wealth which at the same time avoid automatic information exchange. The increasing number of free ports which store such luxury assets - including in Europe - must be required to report the non-financial assets stored there. The same holds true for safe deposit boxes.
- 4. The inclusion of crypto assets will become increasingly important in this digitalised world.** The rule should be very simple: There must not be a difference between the

treatment of crypto assets and other mobile capital. Actors should not be able to join the financial crypto world without beneficial owners being registered. This is technically challenging but doable.

5. **No beneficial owner may enjoy the luxury of disguising his or her identity for tax purposes.** It is already highly doubtful that one can sell citizenship rights in the first place. But given the reality that visas and passports are currently for sale in a number of countries, including in Europe, we need to make sure that this practice does not contribute to tax evasion and financial crime. The true countries of tax residency must not be deprived of any relevant information because of golden visas or passports.
6. **We have to talk about reciprocity and the important role of the United States of America.** At the moment, there is no reciprocity under FATCA. I believe moving away from this uneven degree of cooperation requires clear communication. There has already been clear communication on the lack of reciprocity at the Global Forum, and this fact should be addressed in an equally open manner during the respective peer reviews. It is a pity that such a lack of reciprocity was accepted in the first place. Does the US want to uphold a practice which has seen it being criticised as possibly the biggest enabler of financial secrecy for non-US citizens by the editorial board of Bloomberg? This has long been an elephant in the CRS room. And now, as the elephants are leaving the White House, the question is: what will happen when the donkeys will come back? And I really call on our American friends to do what is needed to ensure the registration of all beneficial owners and to include non-US income by US entities in the information it automatically shares with other countries. CRS is something like an abandoned child of the United States and we should work for family reunification! Maybe a CRS 2.0 could also provide stronger incentives for reciprocity from the US, because some of these objectives simply cannot be achieved alone. Whoever wants to profit from a stronger CRS 2.0. has to implement the standard to the full. At the same time it is clear: without American commitment CRS 2.0 will be much harder to achieve.
7. **Lastly, we need more registers with beneficial ownership information which are effectively connected.** Corporate registers, real estate registers, and bank account registers should contain quality data on beneficial ownership and these registers need to be networked internationally with low barriers. At the same time, the public availability of information - particularly for research and evaluation purposes - is also an important issue.

With all this information, we can make our joint vision a reality: tax sovereignty and tax fairness all over the world. Yet, I see a threat to this joint vision which should not go unnoticed: Compliance with data protection rules must not be used as a shield against tax transparency! Obviously automatic information for tax purposes serves the public interest. But at the same time all those who receive sensitive data have to ensure strong standards of data protection in order to protect the CRS arrangements which are so important for fairness and tax sovereignty.

I sincerely hope that the 2020 OECD Global Forum will mark the starting point for our joint efforts to create a better world. The CRS and the FATCA have already demonstrated that capital is taxable, even in a globalised financial system. However, to fully re-establish states' tax sovereignty, the CRS needs to be further strengthened on key issues. I hope that the

seven key measures I have presented above may enrich our debate. Now let us expand the toolbox, for all of us.

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